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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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9 DAREN HEATHERLY and IRMA RAMIREZ

10 UNITED STATES DISTRICT COURT
11
12 NORTHERN DISTRICT OF CALIFORNIA

CW

13 DAREN HEATHERLY and IRMA
14 RAMIREZ, each an individual,

15 Plaintiffs,

16 v.

17 MAIL BOXES ETC.; ERIC AND LINNEA
18 ALEXANDERSON, TRUSTEES OF THE
19 ALEXANDERSON FAMILY 2001
20 TRUST; JON W. LEE, an individual dba
21 MAIL BOXES ETC.; and KENNETH
22 TOM, an individual dba MAIL BOXES
23 ETC.

24 Defendants.

CV 11
CASE NO.
Civil Rights

0644

COMPLAINT FOR INJUNCTIVE RELIEF
AND DAMAGES:

1st CAUSE OF ACTION: For Denial of Access
by a Public Accommodation in Violation of the
Americans with Disabilities Act of 1990 (42
U.S.C. §12101, *et seq.*)

2nd CAUSE OF ACTION: For Denial of Full
and Equal Access in Violation of California
Civil Code §§54, 54.1 and 54.3

3rd CAUSE OF ACTION: For Denial of
Access to Full and Equal Accommodations,
Advantages, Facilities, Privileges and/or
Services in Violation of California Civil Code
§51, *et seq.* (The Unruh Civil Rights Act)

DEMAND FOR JURY

1 Plaintiff DAREN HEATHELY and plaintiff IRMA RAMIREZ, each an individual,
2 complains of defendants ERIC AND LINNEA ALEXANDERSON, TRUSTEES OF THE
3 ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE; and KENNETH TOM, dba MAIL
4 BOXES ETC. and alleges as follows:

5 **INTRODUCTION:**

6 1. This is a civil rights action for discrimination against persons with physical
7 disabilities, of which class plaintiff DAREN HEATHERLY, plaintiff IRMA RAMIREZ and the
8 disability community are members, for failure to remove architectural barriers structural in nature
9 at defendants' MAIL BOXES ETC., a place of public accommodation, thereby discriminatorily
10 denying each plaintiff and the class of other similarly situated persons with physical disabilities
11 access to, the full and equal enjoyment of, opportunity to participate in, and benefit from, the
12 goods, facilities, services, and accommodations thereof. Each plaintiff seeks injunctive relief and
13 damages pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*;
14 California Civil Code §§51, 51.5 and 54, *et seq.*; and California Health & Safety Code §19955, *et*
15 *seq.*

16 2. Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each is a person
17 with physical disabilities who, on or about November 18, 2010 and December 16, 2010, was an
18 invitee, guest, patron, customer at defendants' MAIL BOXES ETC., in the City of San Francisco,
19 California. At said times and place, defendants failed to provide proper legal access to the retail
20 store, which is a "public accommodation" and/or a "public facility" including, but not limited to
21 the entrance and signage. The denial of access was in violation of both federal and California
22 legal requirements, and plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each
23 suffered violation of his/her civil rights to full and equal access, and was embarrassed and
24 humiliated.

1 **JURISDICTION AND VENUE:**

2 3. **Jurisdiction:** This Court has jurisdiction of this action pursuant to 28 U.S.C.
 3 §1331 for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*
 4 Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same
 5 nucleus of operative facts and arising out of the same transactions, are also brought under parallel
 6 California law, whose goals are closely tied with the ADA, including but not limited to violations
 7 of California Civil Code §51, *et seq.* and §54, *et seq.*, California Health & Safety Code §19955 *et*
 8 *seq.*, including §19959; California Building Code.

9 4. **Venue:** Venue is proper in this court pursuant to 28 U.S.C. §1391(b) and is
 10 founded on the facts that the real property which is the subject of this action is located at/near
 11 4104 24th Street, in the City and County of San Francisco, State of California, and that plaintiffs'
 12 causes of action arose in this county.

13 **PARTIES:**

14 5. Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each is a
 15 "physically handicapped person", a "physically disabled person", and a "person with physical
 16 disabilities" (hereinafter the terms "physically disabled", "physically handicapped" and "person
 17 with physical disabilities" are used interchangeably, as these words have similar or identical
 18 common usage and legal meaning, but the legislative scheme in Part 5.5 of the Health & Safety
 19 Code uses the term "physically handicapped persons" and the Unruh Civil Rights Act, §§51,
 20 51.5, 54 and 54.1, and other statutory measures refer to protection of the rights of "physically
 21 disabled persons"). Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each is a
 22 "person with physical disabilities", as defined by all applicable California and United States
 23 laws. Plaintiff DAREN HEATHERLY is afflicted with Multiple Sclerosis and a left hip
 24 replacement. Plaintiff DAREN HEATHERLY relies primarily on a wheelchair to travel about
 25 in public. Plaintiff IRMA RAMIREZ suffers from Post-Polio syndrome. Plaintiff IRMA
 26 RAMIREZ relies on crutches and/or a wheelchair as her ambulance to travel about in public.

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1 Consequently, plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each is a
2 member of that portion of the public whose rights are protected by the provisions of Health &
3 Safety Code §19955, *et seq.* (entitled "Access to Public Accommodations by Physically
4 Handicapped Persons") and the protections of the Unruh Civil Rights Act, Civil Code §§51 and
5 51.5 the Disabled Persons Act, Civil Code §54, and the Americans with Disabilities Act, 42
6 U.S.C. §12101, *et seq.*

7 6. Defendants ERIC AND LINNEA ALEXANDERSON, TRUSTEES OF THE
8 ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE; and KENNETH TOM
9 (hereinafter alternatively collectively referred to as "defendants") are the owners and operators,
10 lessors and/or lessees, or agents of the owners, lessors and/or lessees, of the public
11 accommodation known as MAIL BOXES ETC., located at/near 4104 24th Street, San Francisco,
12 California, or of the building and/or buildings which constitute said public accommodation.

13 7. At all times relevant to this complaint, defendants ERIC AND LINNEA
14 ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON
15 W. LEE; and KENNETH TOM, own and operate in joint venture the subject MAIL BOXES
16 ETC. as a public accommodation. This business is open to the general public and conducts
17 business therein. The business is a "public accommodation" or "public facility" subject to the
18 requirements of California Civil Code §§51, 51.5 and 54, *et seq.*, Health and Safety code §19955,
19 *et seq.*, and the ADA, 42 U.S.C. §12101, *et seq.*

8. At all times relevant to this complaint, defendants ERIC AND LINNEA ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE; and KENNETH TOM are jointly and severally responsible to identify and remove architectural barriers at the subject MAIL BOXES ETC. pursuant to Code of Federal Regulations title 28, section 36.201(b), which states in pertinent part:

§ 36.201 General

(b) *Landlord and tenant responsibilities.* Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract.

28 CFR §36.201(b)

PRELIMINARY FACTUAL ALLEGATIONS:

9. The MAIL BOXES ETC., is a retail store, located at/near 4104 24th Street, San Francisco, California 94114. The MAIL BOXES ETC., its entrance and signage, and its other facilities are each a "place of public accommodation or facility" subject to the barrier removal requirements of the Americans with Disabilities Act. On information and belief, each such facility has, since July 1, 1970, undergone "alterations, structural repairs and additions," each of which has subjected the MAIL BOXES ETC. and each of its facilities, its entrance and signage to disability access requirements per the Americans with Disabilities Act Accessibility Guidelines (ADAAG), and Title 24 of the California Code of regulations (Title 24).

10. On or about November 29, 2001, defendants' and each of them purchased and/or took possessory control of the premises now known as MAIL BOXES ETC. At all times prior thereto, defendants' and each of them were aware of their obligation prior to the close of escrow, or upon taking possessory interest that public accommodations had a duty to identify and remove architectural barriers and were aware that MAIL BOXES ETC. was not accessible to the disabled. Nevertheless, defendants' and each of them, operated the MAIL BOXES ETC. as though it was accessible.

1 11. At all times stated herein, defendants' and each of them with the knowledge that
2 each of them had a continuing obligation to identify and remove architectural barriers where it
3 was readily achievable to do so, failed to adopt a transition plan to provide better and/or
4 compliant access to the subject accommodation.

5 12. At all times referred to herein and continuing to the present time, defendants, and
6 each of them, advertised, publicized and held out the MAIL BOXES ETC. as being handicapped
7 accessible and handicapped usable.

8 13. On or about November 18, 2010 and December 16, 2010, plaintiff DAREN
9 HEATHERLY and plaintiff IRMA RAMIREZ each was an invitee and guest at the subject
10 MAIL BOXES ETC., for purposes of utilizing the services of MAIL BOXES ETC.

11 14. On or about November 18, 2010, plaintiff DAREN HEATHERLY could not gain
12 entrance to MAIL BOXES ETC. There were two (2) entrances. Neither was marked as an
13 accessible entrance. Neither had signage as to how service could be had.

14 15. At said time and place, plaintiff DAREN HEATHERLY encountered steps that
15 were architectural barriers and no method to summons assistance. Patrons left MAIL BOXES
16 ETC. As they were leaving, plaintiff would raise his voice in an attempt to summon an
17 employee. Finally, plaintiff DARERN HEATHERLY summoned an employee and conducted
18 his business from the sidewalk.

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1 16. On or about November 23, 2010, plaintiff DAREN HEATHERLY wrote both the
2 landlord and tenant and stated:

3 “Recently, I was in the City and needed to mail
4 something. There are a few problems that need your
5 immediate attention. You see, I use a wheelchair.
6 Wheelchair users like me (as I did) have a problem with not
7 getting in or having the same service as others. So, what can
8 you do? You can put in a palm button and buzzer. Put up a
9 sign with the wheelchair on it. A blue sign. Have it read
“Press for Service”. Be sure it has the wheelchair symbol on
it. Then train your people on how to assist those needing
assistance.

10 I thought the landlord and the tenant should know
11 about this. That’s why I wrote this identical letter to both of
12 you. It’s like letting the right hand know what the left hand
is doing! If you both put your heads and hands together, I
know the two of you can fix this problem.

13 You need to learn what needs to be done and do it
14 now. So to help you, please call Pacific ADA and IT Center
15 in Oakland at 1-800-949-4232, and ask them to send you all
16 the information they have on access then you will know
17 what to look at and what needs to be done. Much of the
18 work can be done by a handyman. Also, look into the
\$10,000 tax credit for providing access. Remember,
19 wheelchair users have an old saying: “Access delayed is
20 Access denied!” You understand, right? Anyway, please
21 write me when you get this letter, tell me exactly what will
22 be done and make me a promise that you will take care of
23 this right away. Give me a date. If you are not the one in
24 charge or don’t have the responsibility to do it, would you
25 make sure this letter goes to the person in charge or who can
26 make decisions on what to do. Thanks!”
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1 17. On or about December 16, 2010, plaintiff DAREN HEATHERLY and plaintiff
2 IRMA RAMIREZ returned to MAIL BOXES ETC. No remedial work had been done. Plaintiff
3 DAREN HEATHERLY and plaintiff IRMA RAMIREZ encountered the exact same barriers
4 encountered by plaintiff DAREN HEATHERLY on November 18, 2010. These barriers deterred
5 plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ from enjoying the same goods
6 and services experienced by able-bodied persons.

7 18. Therefore, at said time(s) and place, plaintiff DAREN HEATHERLY and plaintiff
8 IRMA RAMIREZ, each a person with a disability, encountered the following inaccessible
9 elements of the subject MAIL BOXES ETC., which constituted architectural barriers and a
10 denial of the proper and legally-required access to a public accommodation to persons with
11 physical disabilities including, but not limited to:

- 12 a. lack of directional signage to show accessible routes of travel, i.e.
13 entrances or a place where services could be summoned;
- 14 b. lack of an accessible entrance;
- 15 c. lack of signage, policies, procedures and guidelines to ensure the persons
16 with disabilities to the maximum extent possible have an opportunity to
17 share in the same goods, services and opportunities as those afforded to
18 able-bodied persons; and
- 19 d. On personal knowledge, information and belief, other public facilities and
20 elements too numerous to list were improperly inaccessible for use by
21 persons with physical disabilities.

22 19. At all times stated herein, the existence of architectural barriers at defendants'
23 place of public accommodation evidenced "actual notice" of defendants' intent not to comply
24 with the Americans with Disabilities Act of 1990 either then, now or in the future.

25 20. On or about November 23, 2010, defendant(s) were sent two (2) letters by or on
26 behalf of plaintiff DAREN HEATHERLY advising of their need to take immediate action to
27 remove architectural barriers and requesting a written response upon receipt of his/her letter,
28 promising to immediately remove the barriers and providing a date when that would be
accomplished.

1 21. As a legal result of defendants ERIC and LINNEA ALEXANDERSON,
2 TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE; and
3 KENNETH TOM 's failure to act as a reasonable and prudent public accommodation in
4 identifying, removing or creating architectural barriers, policies, practices and procedures that
5 denied access to each plaintiff and other persons with disabilities, each plaintiff suffered the
6 damages as alleged herein.

7 22. Further, plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ suffered
8 emotional distress, mental distress, mental suffering, mental anguish, which includes, but is not
9 limited to, shame, humiliation, embarrassment, anger, disappointment and worry, expectedly and
10 naturally associated with a person with physical disabilities being denied access, all to his/her
11 damages as prayed hereinafter in an amount within the jurisdiction of this court.

12 No claim is being made for mental and emotional distress over and above that usually associated
13 with the discrimination and physical injuries claimed, and no expert testimony regarding this
14 usual mental and emotional distress will be presented at trial in support of the claim for damages.

15 23. Defendants', and each of their, failure to remove the architectural barriers
16 complained of herein created, at the time of plaintiff DAREN HEATHERLY and plaintiff IRMA
17 RAMIREZ's first visit to said public accommodation, and continues to create continuous and
18 repeated exposure to substantially the same general harmful conditions which caused plaintiff
19 DAREN HEATHERLY and plaintiff IRMA RAMIREZ harm as stated herein.

20 24. Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each was denied
21 his/her rights to equal access to a public facility by defendants ERIC AND LINNEA
22 ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W.
23 LEE; and KENNETH TOM , because defendants ERIC AND LINNEA ALEXANDERSON,
24 TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE; and
25 KENNETH TOM maintained a retail store without access for persons with physical disabilities to
26 its facilities, including but not limited to the entrance and signage, and other public areas as stated
27 herein, and continue to the date of filing this complaint to deny equal access to each plaintiff and
28 other persons with physical disabilities in these and other ways.

1 25. On information and belief, construction alterations carried out by defendants have
2 also triggered access requirements under both California law and the Americans with Disabilities
3 Act of 1990.

4 26. Each plaintiff, as described hereinbelow, seeks injunctive relief to require the
5 MAIL BOXES ETC. to be made accessible to meet the requirements of both California law and
6 the Americans with Disabilities Act of 1990, whichever is more restrictive, so long as defendants
7 operate the store as a public facility.

8 27. Each plaintiff seeks damages for violation of his/her civil rights on
9 November 18, 2010 and December 16, 2010 and seeks statutory damages of not less than \$4,000,
10 pursuant to Civil Code §52(a) or alternatively \$1000 pursuant to Civil Code §54.3, for each day
11 after his/her visit that the trier of fact (court/jury) determines was the date that some or all
12 remedial work should have been completed under the standard that the landlord and tenant had an
13 ongoing duty to identify and remove architectural barriers where it was readily achievable to do
14 so, which deterred each plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ from
15 returning to the subject public accommodation because of his/her knowledge and/or belief that
16 neither some or all architectural barriers had been removed and that said premises remains
17 inaccessible to persons with disabilities whether a wheelchair user or otherwise.

18 28. Plaintiff IRMA RAMIREZ does not seek damages under any causes of action
19 relative to plaintiff DAREN HEATHERLY's visit on November 18, 2010.

20 29. On information and belief, defendants have been negligent in their affirmative duty
21 to identify the architectural barriers complained of herein and negligent in the removal of some or
22 all of said barriers.

23 30. Because of defendants' violations, each plaintiff and other persons with physical
24 disabilities are unable to use public facilities such as those owned and operated by defendants on a
25 "full and equal" basis unless such facility is in compliance with the provisions of the Americans
26 with Disabilities Act of 1990, Civil Code §54.1 and Health & Safety Code §19955, *et seq.* and
27 other accessibility law as plead herein. Each plaintiff seeks an order from this court compelling
28 defendants to make the MAIL BOXES ETC. accessible to persons with disabilities.

1 31. On information and belief, defendants have intentionally undertaken to modify and
2 alter existing building(s), and have failed to make them comply with accessibility requirements
3 under the requirements of ADAAG and California Building Code. The acts and omission of
4 defendants, and each of them, in failing to provide the required accessible public facilities at the
5 time of each plaintiff's visit and injuries, indicate actual and implied malice toward each plaintiff,
6 and despicable conduct carried out by defendants, and each of them, with a willful and conscious
7 disregard for the rights and safety of each plaintiff and other similarly situated persons, and justify
8 a trebling of damages as provided by Civil Code §§52(a) and 54.3, in order to make a more
9 profound example of defendants, and each of them, to other operators and landlords of other retail
10 service stores and other public facilities, and to punish defendants and to carry out the purposes
11 of the Civil Code §§ 51, 51.5 and 54.

12 32. Each plaintiff is informed and believes and therefore alleges that defendants ERIC
13 and LINNEA ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001
14 TRUST; JON W. LEE; and KENNETH TOM, and each of them, caused the subject building(s)
15 which constitute the retail store to be constructed, altered and maintained in such a manner that
16 persons with physical disabilities were denied full and equal access to, within and throughout said
17 building(s) of the store and were denied full and equal use of said public facilities. Furthermore,
18 on information and belief, defendants have continued to maintain and operate said store and/or its
19 building(s) in such conditions up to the present time, despite actual and constructive notice to
20 such defendants that the configuration of MAIL BOXES ETC. and/or its building(s) is in
21 violation of the civil rights of persons with physical disabilities, such as plaintiff DAREN
22 HEATHERLY, plaintiff IRMA RAMIREZ and other members of the disability community.
23 Such construction, modification, ownership, operation, maintenance and practices of such public
24 facilities are in violation of Civil Code §§51, 51.5 and 54, Health and Safety Code §19955, and
25 the ADA, 42 U.S.C. §12101, *et seq.*

1 33. On personal knowledge, information and belief, the basis of defendants' actual and
2 constructive notice that the physical configuration of the facilities including, but not limited to,
3 architectural barriers constituting the MAIL BOXES ETC. and/or building(s) was in violation of
4 the civil rights of persons with physical disabilities, such as each plaintiff, includes, but is not
5 limited to, communications with invitees and guests, plaintiff DAREN HEATHERLY himself,
6 Mail Boxes Etc., FedEx and UPS and businesses, notices they obtained from governmental
7 agencies upon modification, improvement, or substantial repair of the subject premises and other
8 properties owned by these defendants, newspaper articles and trade publications regarding the
9 Americans with Disabilities Act of 1990 and other access laws, public service announcements by
10 former U.S. Attorney General Janet Reno between 1993 and 2000, and other similar information.
11 Defendants' failure, under state and federal law, to make the MAIL BOXES ETC. accessible is
12 further evidence of defendants' conscious disregard for the rights of plaintiffs and other similarly
13 situated persons with disabilities. Despite being informed of such effect on each plaintiff and
14 other persons with physical disabilities due to the lack of accessible facilities, defendants, and
15 each of them, knowingly and willfully refused to take any steps to rectify the situation and to
16 provide full and equal access for each plaintiff and other persons with physical disabilities to the
17 MAIL BOXES ETC. Said defendants, and each of them, have continued such practices, in
18 conscious disregard for the rights of each plaintiff and other persons with physical disabilities, up
19 to the date of filing of this complaint, and continuing thereon. Defendants had further actual
20 knowledge of the architectural barriers referred to herein by virtue of the demand letter addressed
21 to the defendants and served concurrently with the summons and complaint. Said conduct, with
22 knowledge of the effect it was and is having on plaintiffs and other persons with physical
23 disabilities, constitutes despicable conduct in conscious disregard of the rights and safety of each
24 plaintiff and of other similarly situated persons, justifying the imposition of treble damages per
25 Civil Code §§52 and 54.3.

34. Plaintiff DAREN HEATHERLY, plaintiff IRMA RAMIREZ and the disability community, consisting of persons with disabilities, would, could and will return to the subject public accommodation when it is made accessible to persons with disabilities.

I. FIRST CAUSE OF ACTION FOR DENIAL OF ACCESS BY A PUBLIC ACCOMMODATION IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (42 U.S.C. §12101, *et seq.*)

(On behalf of Plaintiff DAREN HEATHERLY and Plaintiff IRMA RAMIREZ, each an individual and Against Defendants ERIC and LINNEA ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE, an individual dba MAIL BOXES ETC.; and KENNETH TOM, an individual dba MAIL BOXES ETC., inclusive) (42 U.S.C. §12101, *et seq.*)

35. Plaintiffs replead and incorporate by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 34 of this complaint.

36. Pursuant to law, in 1990, the United States Congress made findings per 42 U.S.C. §12101 regarding persons with physical disabilities, finding that laws were needed to more fully protect:

some 43 million Americans with one or more physical or mental disabilities; [that] historically society has tended to isolate and segregate individuals with disabilities; [that] such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem; [that] the nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living and economic self-sufficiency for such individuals; [and that] the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.

37. Congress stated as its purpose in passing the Americans with Disabilities Act of 1990 (42 U.S.C. §12102):

It is the purpose of this act (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; (3) to ensure that the Federal government plays a central role in enforcing the standards established in this act on behalf of individuals with disabilities; and (4) to invoke the sweep of Congressional authority, including the power to enforce the 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day to day by people with disabilities.

38. As part of the Americans with Disabilities Act of 1990, Public Law 101-336 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services Operated by Private Entities" (Section 301 42 U.S.C. §12181, *et seq.*). Among the public accommodations identified for purposes of this title was:

(7) PUBLIC ACCOMMODATION - The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce -

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty parlor, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;

42 U.S.C. §12181(7)(E)(F)

39. Pursuant to §302, 42 U.S.C. §12182, "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation."

40. The specific prohibitions against discrimination set forth in §302(b)(2)(a), 42 U.S.C. §12182(b)(2)(a) are:

(I) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

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(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities . . . where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable.

The acts of defendants set forth herein were a violation of each plaintiff's rights under the ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 CFR Part 36, *et seq.* - Effective January 31, 1993, the standards of the ADA were also incorporated into California Civil Code §51, making available the damage remedies incorporated into Civil Code §51 and 52(a) and 54.3.

41. The removal of the barriers complained of by plaintiffs as hereinabove alleged were at all times after January 26, 1992 "readily achievable" as to the subject building(s) of MAIL BOXES ETC. pursuant to 42 U.S.C. §12182 (b)(2)(A)(i)-(iv). On information and belief, if the removal of all the barriers complained of herein together was not "readily achievable," the removal of each individual barrier complained of herein was "readily achievable." On information and belief, defendants' failure to remove said barriers was likewise due to discriminatory practices, procedures and eligibility criteria, as defined by 42 U.S.C. §12182 (b)(2)(A)(i) and (ii).

42. Per 42 U.S.C. §12181 (9), the term "readily achievable" means "easily accomplishable and able to be carried out without much difficulty or expense." The statute defines relative "expense" in part in relation to the total financial resources of the entities involved.

1 Each plaintiff alleges that properly repairing, modifying, or altering each of the items that
2 plaintiffs complains of herein were and are "readily achievable" by the defendants under the
3 standards set forth under §301(9) of the Americans with Disabilities Act. Furthermore, if it was
4 not "readily achievable" for defendants to remove each of such barriers, defendants have failed to
5 make the required services available through alternative methods which were readily achievable.

6 43. On information and belief, construction work on, and modifications of, the subject
7 building(s) of MAIL BOXES ETC. occurred after the compliance date for the Americans with
8 Disabilities Act, January 26, 1992, independently triggering access requirements under Title III of
9 the ADA.

10 44. Pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12188, *et*
11 *seq.*, plaintiff is entitled to the remedies and procedures set forth in §204(a) of the Civil Rights
12 Act of 1964, 42 U.S.C. 2000(a)-3(a), as each plaintiff is being subjected to discrimination on the
13 basis of disability in violation of this title or have reasonable grounds for believing that plaintiff is
14 about to be subjected to discrimination in violation of §302. Each plaintiff is deterred from
15 returning to or making use of the public facilities complained of herein so long as the premises
16 and defendants' policies bar full and equal use by persons with physical disabilities.

17 45. 42 U.S.C. 12188 (a)(1) states: "Nothing in this section shall require a person with a
18 disability to engage in a futile gesture if such person has actual notice that a person or
19 organization covered by this title does not intend to comply with its provisions." Pursuant to this
20 section, plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each has not returned to
21 defendants' premises since on or about December 16, 2010, but on information and belief, alleges
22 that defendants have continued to violate the law and deny the rights of each plaintiff and of other
23 persons with physical disabilities to access this public accommodation. Pursuant to 42 USC
24 §12188(a)(2), "In cases of violations of §302(b)(2)(A)(iv) . . . injunctive relief shall include an
25 order to alter facilities to make such facilities readily accessible to and usable by individuals with
26 disabilities to the extent required by this title."

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46. Each plaintiff seeks relief pursuant to remedies set forth in §204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000(a)-3(a)), and pursuant to federal regulations adopted to implement the Americans with Disabilities Act of 1990, including but not limited to an order granting injunctive relief and attorneys' fees. Each plaintiff will seek attorneys' fees conditioned upon being deemed to be the prevailing party.

II. SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND EQUAL ACCESS IN VIOLATION OF CALIFORNIA CIVIL CODE §§54, 54.1 AND 54.3, ET SEQ.
(On Behalf of Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ, each an individual and Against Defendants ERIC and LINNEA ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE, an individual dba MAIL BOXES ETC.; and KENNETH TOM, an individual dba MAIL BOXES ETC., inclusive) (California Civil Code §§54, 54.1, 54.3, *et seq.*)

47. Plaintiffs replead and incorporate by reference as if fully set forth again herein, the allegations contained in paragraphs 1 through 46 of this complaint.

48. At all times relevant to this action, California Civil Code §54 has provided that persons with physical disabilities are not to be discriminated against because of physical handicap or disability. This section provides that:

(a) Individuals with disabilities . . . have the same rights as the general public to full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, and other public places.

49. California Civil Code §54.1 provides that persons with disabilities shall not be denied full and equal access to places of public accommodation or facilities:

(a)(1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

Civil Code §54.1(a)(1)

1 50. California Civil Code §54.1 further provides that a violation of the Americans with
2 Disabilities Act of 1990 constitutes a violation of section 54.1:

3 (d) A violation of the right of an individual under the
4 Americans with Disabilities Act of 1990 (Public Law 101-336) also
5 constitutes a violation of this section, and nothing in this section
6 shall be construed to limit the access of any person in violation of
7 that act.

8 Civil Code §54.1(d)

9 51. Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each is a person
10 within the meaning of Civil Code §54.1 whose rights have been infringed upon and violated by
11 the defendants, and each of them, as prescribed by Civil Code §§54 and 54.1. Each specific
12 architectural barrier which defendants knowingly and willfully fail and refuse to remove
13 constitutes a separate act in violation of Civil Code §§54 and 54.1. Each plaintiff has been and
14 continue to be denied full and equal access to defendants' MAIL BOXES ETC.. As a legal result,
15 each plaintiff is entitled to seek damages pursuant to a court or jury determination, in accordance
16 with California Civil Code §54.3(a) for each day on which he/she visited or have been deterred
17 from visiting the MAIL BOXES ETC. because of his/her knowledge and belief that the MAIL
18 BOXES ETC. is inaccessible to persons with disabilities. California Civil Code §54.3(a)
19 provides:

20 Any person or persons, firm or corporation, who denies or interferes
21 with admittance to or enjoyment of the public facilities as specified
22 in Sections 54 and 54.1 or otherwise interferes with the rights of an
23 individual with a disability under Sections 54, 54.1 and 54.2 is
24 liable for each offense for the actual damages and any amount as
25 may be determined by a jury, or the court sitting without a jury, up
26 to a maximum of three times the amount of actual damages but in
27 no case less than . . . one thousand dollars (\$1,000) and . . .
28 attorney's fees as may be determined by the court in addition
thereto, suffered by any person denied any of the rights provided in
Sections 54, 54.1 and 54.2.

 Civil Code §54.3(a)

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1 52. On or about November 18, 2010 and December 16, 2010, plaintiff DAREN
2 HEATHERLY and plaintiff IRMA RAMIREZ for each of their respective visits suffered
3 violations of Civil Code §§54 and 54.1 in that plaintiff DAREN HEATHERLY and plaintiff
4 IRMA RAMIREZ each was denied access to the entrance and signage and other public facilities
5 as stated herein at the MAIL BOXES ETC. and on the basis that plaintiff DAREN HEATHERLY
6 and plaintiff IRMA RAMIREZ each was a person with physical disabilities.

7 53. Further, plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each
8 suffered mental distress, mental suffering, mental anguish, which includes shame, humiliation,
9 embarrassment, frustration, anger, disappointment and worry, all of which are expectedly and
10 naturally associated with a denial of access to a person with physical disabilities, all to each
11 plaintiff's damages as hereinafter stated. Defendants' actions and omissions to act constituted
12 discrimination against each plaintiff on the sole basis that each plaintiff is a person or an entity
13 that represents persons with physical disabilities and unable, because of the architectural barriers
14 created and maintained by the defendants in violation of the subject laws, to use the public
15 facilities hereinabove described on a full and equal basis as other persons.

16 54. Each plaintiff has been damaged by defendants', and each of their, wrongful
17 conduct and seeks the relief that is afforded by Civil Code §§54 and 54.1, 54.3 for violation of
18 each plaintiff's rights as a person or an entity that represents persons with physical disabilities on
19 or about November 18, 2010 and December 16, 2010, and on a continuing basis since then,
20 including statutory damages, a trebling of all of actual damages, general and special damages
21 available pursuant to §54.3 of the Civil Code according to proof.

22 55. As a result of defendants', and each of their, acts and omissions in this regard,
23 each plaintiff has been required to incur legal expenses and hire attorneys in order to enforce each
24 plaintiff's rights and enforce the provisions of the law protecting access for persons with physical
25 disabilities and prohibiting discrimination against persons with physical disabilities.

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Pursuant to the provisions of Civil Code §54.3, each plaintiff therefore will seek recovery in this lawsuit for all reasonable attorneys' fees and costs incurred if deemed the prevailing party. Additionally, plaintiffs' lawsuit is intended not only to obtain compensation for damages to plaintiffs, but also to compel the defendants to make their facilities accessible to all members of the public with disabilities, justifying public interest attorneys' fees, if deemed the prevailing party, pursuant to the provisions of §1021.5 of the Code of Civil Procedure.

III. THIRD CAUSE OF ACTION FOR DENIAL OF ACCESS TO FULL AND EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES AND/OR SERVICES IN VIOLATION OF CALIFORNIA CIVIL CODE §51, ET SEQ. (THE UNRUH CIVIL RIGHTS ACT)

(On Behalf of Plaintiff DAREN HEATHELRY and Plaintiff IRMA RAMIREZ, each an individual and Against Defendants ERIC and LINNEA ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE, an individual dba MAIL BOXES ETC.; and KENNETH TOM, an individual dba MAIL BOXES ETC., inclusive) (Civil Code §51, 51.5)

56. Plaintiffs replead and incorporate by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 55 of this complaint.

57. Defendants' actions and omissions and failure to act as a reasonable and prudent public accommodation in identifying, removing and/or creating architectural barriers, policies, practices and/or procedures violates §51 of the Civil Code, the Unruh Civil Rights Act. The Unruh Act provides:

This section shall be known, and may be cited, as the Unruh Civil Rights Act.

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, or **disability** are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, or **disability**.

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1 Nothing in this section shall be construed to require any
 2 construction, alteration, repair, structural or otherwise, or
 3 modification of any sort whatsoever, beyond that construction,
 4 alteration, repair, or modification that is otherwise required by other
 5 provisions of law, to any new or existing establishment, facility,
 6 building, improvement, or any other structure . . . nor shall anything
 in this section be construed to augment, restrict, or alter in any way
 the authority of the State Architect to require construction,
 alteration, repair, or modifications that the State Architect otherwise
 possesses pursuant to other . . . laws.

7 A violation of the right of any individual under the
 8 Americans with Disabilities Act of 1990 (Public Law 101-336) shall
 also constitute a violation of this section.

9 As the Unruh Act incorporates violations of the Americans with Disabilities Act of 1990, the
 10 "intent" of the defendants in not complying with barrier removal is not an issue. Hence, the
 11 failure on the parts of defendants, as reasonable and prudent public accommodations, in acting or
 12 failing to act to identify and remove barriers can be construed as a "negligent per se" act of
 13 defendants, and each of them.

14 58. The acts and omissions of defendants stated herein are discriminatory in nature and
 15 in violation of Civil Code §51.5:

16 No business establishment of any kind whatsoever shall
 17 discriminate against, boycott or blacklist, refuse to buy from, sell to,
 18 or trade with any person in this state because of the race, creed,
 19 religion, color, national origin, sex, or **disability** of the person or of
 the person's partners, members, stockholders, directors, officers,
 managers, superintendents, agents, employees, business associates,
 suppliers, or customers.

20 As used in this section, "person" includes any person, firm
 21 association, organization, partnership, business trust, corporation,
 limited liability company, or company.

22 Nothing in this section shall be construed to require any
 23 construction, alteration, repair, structural or otherwise, or
 24 modification of any sort whatsoever, beyond that construction,
 25 alteration, repair or modification that is otherwise required by other
 26 provisions of law, to any new or existing establishment, facility,
 building, improvement, or any other structure . . . nor shall anything
 in this section be construed to augment, restrict or alter in any way
 the authority of the State Architect to require construction,
 alteration, repair, or modifications that the State Architect otherwise
 possesses pursuant to other laws.

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1 59. Defendants' acts and omissions as specified have denied each plaintiff full and
2 equal accommodations, advantages, facilities, privileges and services in a business establishment,
3 on the basis of physical disability, in violation of Civil Code §§51 and 51.5, the Unruh Civil
4 Rights Act. Furthermore, pursuant to the 1992 amendment to California Civil Code §51, "A
5 violation of the right of any individual under the Americans with Disabilities Act of 1990 (Public
6 Law 101-336) shall also constitute a violation of this section." Each plaintiff accordingly
7 incorporates the entirety of his/her above cause of action for violation of the Americans with
8 Disabilities Act at §35, *et seq.*, as if repled herein.

9 60. Further, plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ each
10 suffered mental distress, mental suffering, mental anguish, which includes shame, humiliation,
11 embarrassment, frustration, anger, disappointment and worry, all of which are expectedly and
12 naturally associated with a denial of access to a person with physical disabilities, all to each
13 plaintiff's damages as hereinafter stated. Defendants' actions and omissions to act constituted
14 discrimination against each plaintiff on the sole basis that each plaintiff is a person or an entity
15 that represents persons with physical disabilities and unable, because of the architectural barriers
16 created and maintained by the defendants in violation of the subject laws, to use the public
17 facilities hereinabove described on a full and equal basis as other persons.

18 61. Plaintiff DAREN HEATHERLY and plaintiff IRMA RAMIREZ are entitled
19 to the rights and remedies of §52(a) of the Civil Code, including trebling of actual damages
20 (defined by §52(h) of the Civil Code to mean "special and general damages"), as well as to
21 reasonable attorneys' fees and costs, as is allowed by statute, according to proof if deemed to be
22 the prevailing party.

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1 **PRAYER:**

2 Plaintiffs pray that this court award damages and provide relief as follows:

3 **I. PRAYER FOR FIRST CAUSE OF ACTION FOR DENIAL OF ACCESS BY A**
 4 **PUBLIC ACCOMMODATION IN VIOLATION OF THE AMERICANS WITH**
 5 **DISABILITIES ACT OF 1990 (42 U.S.C. §1 2101, *et seq.*)**

6 (On Behalf of Plaintiff DAREN HEATHERLY and Plaintiff IRMA RAMIREZ, each an
 7 individual and Against Defendants ERIC and LINNEA ALEXANDERSON, TRUSTEES
 8 OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE, an individual dba
 9 MAIL BOXES ETC.; and KENNETH TOM, an individual dba MAIL BOXES ETC.,
 10 inclusive) (42 U.S.C. §12101, *et seq.*)

11 1. For injunctive relief, compelling defendants ERIC and LINNEA
 12 ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W.
 13 LEE; and KENNETH TOM, inclusive, to make the MAIL BOXES ETC., located at 4104 24th
 14 Street, San Francisco, California, readily accessible to and usable by individuals with disabilities,
 15 per 42 U.S.C §12181, *et seq.*, and to make reasonable modifications in policies, practice,
 16 eligibility criteria and procedures so as to afford full access to the goods, services, facilities,
 17 privileges, advantages and accommodations being offered.

18 2. For attorneys' fees, litigation expenses and costs of suit, if plaintiffs are deemed
 19 the prevailing party; and

20 3. For such other and further relief as the court may deem proper.

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1 **II. PRAYER FOR SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND**
 2 **EQUAL ACCESS IN VIOLATION OF CALIFORNIA CIVIL CODE §§54, 54.1**
 3 **AND 54.3, *ET SEQ.***

4 (On Behalf of Plaintiff DAREN HEATHERLY and Plaintiff IRMA RAMIREZ, each an
 5 individual and Against Defendants ERIC and LINNEA ALEXANDERSON, TRUSTEES
 6 OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE, an individual dba
 7 MAIL BOXES ETC.; and KENNETH TOM, an individual dba MAIL BOXES ETC.,
 8 inclusive) (California Civil Code §§54, 54.1, 54.3, *et seq.*)

9 1. For injunctive relief, compelling defendants ERIC and LINNEA
 10 ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W.
 11 LEE; and KENNETH TOM , inclusive, to make the MAIL BOXES ETC., located at 4104 24th
 12 Street, San Francisco, California, readily accessible to and usable by individuals with disabilities,
 13 per state law.

14 2. Statutory damages as afforded by Civil Code §54.3 for the date of incident and for
 15 each occasion on which plaintiffs were deterred from returning to the subject public
 16 accommodation.

17 3. Attorneys' fees pursuant to Civil Code §54.3 and Code of Civil Procedure §1021.5,
 18 if plaintiffs are deemed the prevailing party;

19 4. Treble damages pursuant to Civil Code §54.3;

20 5. General damages according to proof;

21 6. For all costs of suit;

22 7. Prejudgment interest pursuant to Civil Code §3291; and

23 8. Such other and further relief as the court may deem just and proper.

III. PRAYER FOR THIRD CAUSE OF ACTION FOR DENIAL OF ACCESS TO FULL AND EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES AND/OR SERVICES IN VIOLATION OF CALIFORNIA CIVIL CODE §51, *ET SEQ.* (THE UNRUH CIVIL RIGHTS ACT)

(On Behalf of Plaintiff DAREN HEATHERLY and Plaintiff IRMA RAMIREZ, each an individual and Against Defendants ERIC and LINNEA ALEXANDERSON, TRUSTEES OF THE ALEXANDERSON FAMILY 2001 TRUST; JON W. LEE, an individual dba MAIL BOXES ETC.; and KENNETH TOM, an individual dba MAIL BOXES ETC., inclusive) (California Civil Code §§51, 51.5, *et seq.*)

1. All statutory damages as afforded by Civil Code §52(a) for the date of incident and for each occasion on which plaintiffs were deterred from returning to the subject public accommodation;

2. Attorneys' fees pursuant to Civil Code §52(a), if plaintiffs are deemed the prevailing party;

3. General damages according to proof;

4. Treble damages pursuant to Civil Code §52(a);

5. For all costs of suit;

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6. Prejudgment interest pursuant to Civil Code §3291; and
7. Such other and further relief as the court may deem just and proper.

Dated: 2/1/11, 2011

THOMAS E. FRANKOVICH,
A PROFESSIONAL LAW CORPORATION

By: 

THOMAS E. FRANKOVICH
Attorneys for Plaintiff DAREN HEATHERLY and
Plaintiff IRMA RAMIREZ, each an individual

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury for all claims for which a jury is permitted.

Dated: 2/1/11, 2011

THOMAS E. FRANKOVICH,
A PROFESSIONAL LAW CORPORATION

By: 

THOMAS E. FRANKOVICH
Attorneys for Plaintiff DAREN HEATHERLY and
Plaintiff IRMA RAMIREZ, each an individual

Exhibit A

Daren Heatherly
734 Morton Way
Santa Rosa, Ca 95404

November 23, 2010

Mail Boxes Etc.
4104 24th St
San Francisco, Ca 94114

Dear Manager of Mail Boxes Etc:

Recently, I was in the City and needed to mail something. There are a few problems that need your immediate attention. You see, I use a wheelchair. Wheelchair users like me (as I did) have a problem with not getting in or having the same service as others. So, what can you do? You can put in a palm button and buzzer. Put up a sign with the wheelchair on it. A blue sign. Have it read "Press for Service". Be sure it has the wheelchair symbol on it. Then train your people on how to assist those needing assistance.

I thought the landlord and the tenant should know about this. That's why I wrote this identical letter to both of you. It's like letting the right hand know what the left hand is doing! If you both put your heads and hands together, I know the two of you can fix this problem.

You need to learn what needs to be done and do it now. So to help you, please call Pacific ADA and IT Center in Oakland at 1-800-949-4232, and ask them to send you all the information they have on access then you will know what to look at and what needs to be done. Much of the work can be done by a handyman. Also, look into the \$10,000 tax credit for providing access. Remember, wheelchair users have an old saying: "Access delayed is Access denied!" You understand, right? Anyway, please write me when you get this letter, tell me exactly what will be done and make me a promise that you will take care of this right away. Give me a date. If you are not the one in charge or don't have the responsibility to do it, would you make sure this letter goes to the person in charge or who can make decisions on what to do. Thanks!

Sincerely,


Daren Heatherly

Daren Heatherly
734 Morton Way
Santa Rosa, Ca 95404

November 23, 2010

Mail Boxes Etc.
4104 24th St
San Francisco, Ca 94114

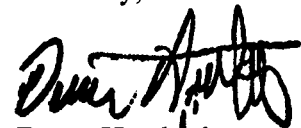
Dear Owner of Building for Mail Boxes Etc:

Recently, I was in the City and needed to mail something. There are a few problems that need your immediate attention. You see, I use a wheelchair. Wheelchair users like me (as I did) have a problem with not getting in or having the same service as others. So, what can you do? You can put in a palm button and buzzer. Put up a sign with the wheelchair on it. A blue sign. Have it read "Press for Service". Be sure it has the wheelchair symbol on it. Then train your people on how to assist those needing assistance.

I thought the landlord and the tenant should know about this. That's why I wrote this identical letter to both of you. It's like letting the right hand know what the left hand is doing! If you both put your heads and hands together, I know the two of you can fix this problem.

You need to learn what needs to be done and do it now. So to help you, please call Pacific ADA and IT Center in Oakland at 1-800-949-4232, and ask them to send you all the information they have on access then you will know what to look at and what needs to be done. Much of the work can be done by a handyman. Also, look into the \$10,000 tax credit for providing access. Remember, wheelchair users have an old saying: "Access delayed is Access denied!" You understand, right? Anyway, please write me when you get this letter, tell me exactly what will be done and make me a promise that you will take care of this right away. Give me a date. If you are not the one in charge or don't have the responsibility to do it, would you make sure this letter goes to the person in charge or who can make decisions on what to do. Thanks!

Sincerely,



Daren Heatherly